

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2002-0105

Waiver of Waste Discharge Requirements

for

THE PACIFIC LUMBER COMPANY, SCOTIA PACIFIC COMPANY LLC,  
AND SALMON CREEK CORPORATION

P.O. Box 37  
Scotia, CA 95565

ELK RIVER  
Humboldt County

The California Regional Water Quality Control Board, North Coast Region, (hereinafter the Regional Water Board) finds that:

1. The Pacific Lumber Company, the Scotia Pacific Company LLC, and Salmon Creek Corporation, all subsidiaries of MAXXAM, Inc., (hereinafter collectively referred to as the Discharger) together own approximately 21,000 acres (76%) of the 27,500 acre Elk River watershed. The Elk River, which is tributary to Humboldt Bay, is located southeast of Eureka. The Elk River is listed as sediment impaired under Section 303(d) of the federal Clean Water Act.
2. The Discharger conducts timber harvesting, forestry management, road construction and maintenance, and related activities on the lands within the Elk River watershed within its ownership.
3. On September 30, 2002, the Discharger submitted a Report of Waste Discharge (ROWD) for thirteen-timber harvest plans (THPs) that are planned to be operated on during the winter of 2002-2003. All of the thirteen THPs drain to the Elk River or tributaries to the Elk River. These thirteen THPs represent approximately 1,000 acres of timber harvest with the majority utilizing evenage management and are listed below.

THP Number	Harvested Acres	Silviculture
1-00-030 HUM	191	CC 182 CT 9
1-00-115 HUM	101	CC 96 STR 5
1-00-215 HUM	7	CC 7
1-00-219 HUM	30	CC 20 CT 10
1-00-280 HUM	69	CC 69
1-00-370 HUM	64	CC 64
1-00-452 HUM	24	CC 24
1-01-003 HUM	148	STR 51 SHR 94 ROW 3

THP Number	Harvested Acres	Silviculture
1-01-004 HUM	38	CT 38
1-02-090 HUM	107	CC 107
1-02-096 HUM	170	CC 170
1-02-102 HUM	32	ALT 25 STR 1 SHR 6
1-02-103 HUM	37	CC 37
Totals	1018	CC 776 SHR 100 CT 57 STR 52 ALT 25 ROW 3
CC=Clearcut; SHR=Shelterwood Removal; CT=Commercial Thin; STR=Seed Tree Removal; ALT=Alternative; ROW=Right of Way.		

4. The ROWD proposes a number of wet weather mitigations, relying largely on the requirements of the Discharger's Habitat Conservation Plan. Additional mitigations include proposals to:
  - apply seed and mulch to areas of bare mineral soil exposed during winter operations when they are larger than 1,000 square feet or are determined to be significant sources for sediment discharge;
  - limit broadcast burning to only those areas where logging slash will inhibit tree planting;
  - identify and use the transportation system and route that is feasible yet most protective of water quality;
  - identify and regularly inspect sensitive road segments; and,
  - apply erosion prevention or sediment control devices in drainage facilities that discharge or could discharge sediment to receiving waters.
  
5. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of the Eureka Plain Hydrologic Unit, including the Elk River and its tributaries, are:
  - a. Municipal and Domestic Supply (MUN)
  - b. Agricultural Supply (AGR)
  - c. Industrial Service Supply (IND)
  - d. Navigation (NAV)
  - e. Water Contact Recreation (REC-1)
  - f. Non-contact Water Recreation (REC-2)
  - g. Cold Freshwater Habitat (COLD)
  - h. Wildlife habitat (WILD)
  - i. Rare, Threatened, or Endangered Species (RARE)
  - j. Marine Habitat (MAR)
  - k. Migration of Aquatic Organisms (MIGR)

- l. Spawning, Reproduction, and/or Early Development (SPWN)
  - m. Shellfish Harvesting (SHELL)
  - n. Estuarine Habitat (EST)
  - o. Aquaculture (AQUA)
6. The permitted discharge is consistent with the provisions State Water Board Resolution No. 68-16, "*Statement of Policy with Respect to Maintaining High Quality of Waters in California.*" The impact on water quality will be insignificant.
  7. The North Coast Regional Water Quality Control Board (Regional Water Board) has notified the Discharger and interested agencies and persons of its intent to take this action, and has provided them with an opportunity for a public meeting and an opportunity to submit their written views and recommendations.
  8. Environmental analysis documents have been prepared pursuant to the California Environment Quality Act (Pub. Resources Code, section 21000 et seq.) (CEQA) for the projects listed above in Finding 3. The timber harvesting review process enacted by the Z'Berg-Njedly Forest Practice Act of 1973 (Pub. Resources Code, section 4511 et seq.) is a certified regulatory program pursuant to CEQA. (Title 14, California Code of Regulations, section 15251(a).) The THP documents prepared pursuant to the California Forest Practice Rules (Title 14, California Code of Regulations, section 895 et seq.) serve as a substitute environmental document pursuant to CEQA. Because the THP process meets the criteria set forth in Title 14, California Code of Regulations, 15253, the THP documents are conclusively presumed adequate and must be relied upon by the Regional Water Board in complying with CEQA to authorize activities addressed in the THPs. (Pub. Resources Code, section 21167.2; Title 14, California Code of Regulations, section 15231.) This presumption applies notwithstanding the pending litigation (*Pacific Lumber Co. v. California State Water Resources Control Board* [Humboldt Co. Superior Court No. DR010860]) that ultimately could affect the validity of the THPs regulated by this Order. (Pub. Resources Code, section 21167.3; Title 14, California Code of Regulations, section 15231). The Regional Water Board may require the preparation of supplemental environmental documentation only in the event of significant new information as specified in Title 14, California Code of Regulations, sections 15162, 15096, and 15052. The Regional Water Board has considered the THPs as required by Title 14, California Code of Regulations, section 15096(f), and finds that no grounds to require supplemental environmental documentation exist. The THPs therefore satisfy the Regional Water Board's obligation to comply with CEQA before issuing this Order.
  9. The Regional Water Board, in a public meeting held in the Wharfinger Building, Eureka, California, on November 7, 2002, heard and considered all comments pertaining to this action.

THEREFORE, IT IS HEREBY ORDERED THAT the Discharger shall comply with the following waiver conditions in order to meet provisions of the Basin Plan, California Water Code and regulations adopted thereunder:

1. The project shall operate under an approved Department of Forestry and Fire Protection timber harvest plan and comply with the terms and conditions of the Discharger's Habitat Conservation Plan.
2. The project shall comply with the terms and conditions of the Discharger's ROWD.
3. The project shall analyze the cumulative watershed impacts of timber harvesting.
4. The project shall comply with all applicable provisions of the Basin Plan.
5. The project shall implement and comply with Monitoring and Reporting Program R1-2002-0105.
6. The project shall comply with applicable local, state or federal laws and regulations.
7. The project shall not create a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code.
8. The discharge of any waste not specifically regulated by this waiver is prohibited.
9. The Discharger shall allow Regional Water Board staff entry onto the affected property for the purpose of determining compliance with the waiver conditions.

Certification

I, Susan Warner, Executive Officer, do hereby  
Certify that the foregoing is a full, true, and correct  
Copy of an Order adopted by the California  
Regional Water Quality Control Board, North Coast  
Region on November 7, 2002.

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Susan Warner  
Executive Officer